

## **REMARKS**

Applicants appreciate the Examiner's detailed examination of the present application as evidenced in the Official Action mailed April 20, 2009 (hereinafter "Office Action"). In response, Applicants have amended Claims 23 – 28 and 30 - 32 to address the Section 101 rejection. Applicants respectfully submit that all pending claims are in condition for allowance. Favorable reconsideration of all pending claims is respectfully requested for at least the reasons discussed hereafter.

### **Section 101 Rejection**

Claims 23 – 28 and 30 - 32 stand rejected under 35 U.S.C. §101 as being directed to "a computer program product," which is allegedly non-statutory language. (Office Action, page 2). Applicants respectfully submit that independent Claim 23 recites patentable subject matter because it recites a computer-readable medium having functional computer readable program code stored thereon, which qualifies as functional descriptive material. As stated in the MPEP in Section 2106.01, a computer readable medium that has computer code embodied therein qualifies as statutory subject matter under Section 101:

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

Nevertheless, to remove any possibility of confusion with regard to the recitation of a "computer program product," Claims 23 – 28 and 30 - 32 have been amended to replace "computer program product" with "an article of manufacture." Accordingly, Applicants respectfully submit that Claims 23 – 28 and 30 - 32 recite patentable subject matter.

### **Independent Claims 1, 12, and 23 are Patentable**

Independent Claims 1, 12, and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2007/0243821 to Hundscheidt et al. (hereinafter "Hundscheidt") in view of U.S. Patent Publication No. 2003/0070174 to Solomon (hereinafter "Solomon"). (Office Action, page 3). Independent Claim 1 is directed to a method of operating a communication network and recites, in part:

providing a wireless communication network that has bandwidth associated therewith to facilitate bi-directional communication between at least one mobile terminal and another mobile terminal;

obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, the streaming media comprising audio and/or video content;

obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media; then

transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (Emphasis added).

Independent Claims 12 and 23 include similar recitations. As emphasized above, at least one mobile terminal obtains a subscription for the streaming media, which is rebroadcast over the wireless network, at the wireless network before the streaming media is transmitted to the at least one mobile terminal. Applicants respectfully submit that even if combined, Hundscheidt and Solomon do not disclose the highlighted recitations of Claim 1 above and similar recitations in independent Claims 12 and 23. Moreover, Applicants respectfully submit that one skilled in the art would not be motivated to combine the teachings of Hundscheidt and Solomon.

The Office Action acknowledges that Hundscheidt fails to disclose obtaining authorization from a media broadcaster to rebroadcast the streaming media over the wireless network and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media, but alleges that Solomon provides the teachings missing from Hundscheidt. (Office Action, pages 3 and 4). Solomon is directed to a video-on-demand system in which a central computer system 110 provides video information to a satellite 114 where it is provided to a plurality of FM transmitter stations 120. The FM transmitter stations 120 re-transmit the video information to set top boxes where the video information is stored in memory (Solomon, paragraphs 93 – 95 and FIG. 1). To view the video information, Solomon explains that a user obtains appropriate activation codes from the central computer system. (Solomon, paragraphs 95 and 112 – 114). Thus, in sharp contrast with the recitations of the pending independent claims, Solomon does not disclose or suggest obtaining a subscription at the wireless network for the video information before the video information is transmitted to the set top box. Instead, according to Solomon, the video information is transmitted to the set top box and the user then obtains activation codes from the central computer system 110 to view the stored video information. Moreover, according

to Solomon, the user obtains the activation codes from the central computer system 110 via the PSTN as shown in FIGS. 1, 2, and 9. Thus, Solomon does not disclose or suggest obtaining a subscription for the streaming media at the wireless network as recited in the pending independent claims.

Applicants respectfully submit, therefore, that even if the teachings of Hundscheidt and Solomon are combined they do not disclose all of the recitations of independent Claims 1, 12, and 23.

Applicants further submit that one skilled in the art would not be motivated to combine the teachings of Hundscheidt and Solomon. Hundscheidt is directed to a distributed caching and redistribution system in which a content provider 12 transmits data content over a wireless data network where it is broadcast to mobile clients 17 – 20. (Hundscheidt, FIG. 2). If one or more of the mobile clients 17 – 20 does not receive some or all of the transmitted data content, then the missing data content can be obtained from one of the other mobile clients 17 – 20 where the data content is cached. (Hundscheidt, paragraph 25). There would appear to be no benefit in modifying Hundscheidt such that the content provider first transmits the data content to a satellite where it is then transmitted back down to the wireless network for distribution as is done in Solomon. In addition, there does not appear to be any benefit in transmitting the data content to set top boxes as taught in Solomon where, presumably, it is then made available to the mobile clients 17 – 20 of Hundscheidt. It would appear that the addition of the satellite transmission link as well as the use of set top boxes merely add complexity to Hundscheidt's system as Hundscheidt's content provider 12 has the ability to communicate data content directly to mobile clients 17 – 20 over a wireless data network.

Applicants respectfully submit, therefore, that one skilled in the art would not modify the system of Hundscheidt to include the additional satellite links and set top boxes as taught in Solomon as such a modification would appear to provide no benefit and would only increase the cost and complexity of Hundscheidt's system.

For at least the foregoing reasons, Applicants respectfully submit that independent Claims 1, 12, and 23 are patentable over the combination of Hundscheidt and Solomon and that dependent Claims 2 – 6, 8 – 10, 13 – 21, 24 – 28, and 30 – 32 are patentable at least by virtue of their depending from an allowable claim.

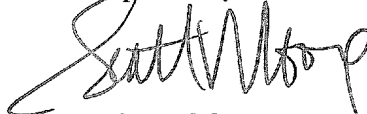
**Dependent Claims Are Patentable**

As each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicants do not believe that it is necessary to argue the allowability of each dependent claim individually. Applicants do not necessarily concur with the interpretation of these claims, or with the bases for rejection set forth in the Office Action. Applicants therefore reserve the right to address the patentability of these claims individually as necessary in the future.

**CONCLUSION**

In light of the above amendments and remarks, Applicants respectfully submit that the above-entitled application is now in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

Respectfully submitted,

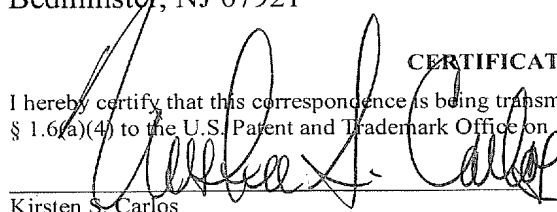


D. Scott Moore  
Registration No. 42,011

**Customer Number 39072**  
AT&T Legal Department  
ATTN: Patent Docketing  
Room 2A-207  
One AT&T Way  
Bedminster, NJ 07921

**CERTIFICATION OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on July 20, 2009.



Kirsten S. Carlos